

SECTION 700: CUSTOMER DUE PROCESS

701 PURPOSE

This section establishes policies related to Customer Due Process.

702 ADVANCE WRITTEN NOTIFICATION

- A. Customers must be provided written notification of any of the following decisions and provided twenty (20) working days to dispute the decision before the decision is implemented, unless one of the exceptions under 702(B) applies.
 - 1. Approval or Denial of an application for assistance.
 - 2. Case Closure.
 - 3. Monthly Assistance Payment Increase.
 - 4. Monthly Assistance Payment Decrease.
 - 5. No Payment for the next benefit month.
 - 6. Disqualification (pursuant to Section 308.9).
 - 7. Imposition of Sanction/Penalty.
 - 8. Improper Payment
- B. Any of the following decisions may be implemented prior to the end of the appeal period:
 - 1. A decision to approve a Customer's application or increase a Benefit Group's monthly assistance amount. The Customer still has the right to appeal the favorable decision.
 - 2. If a head-of household submits a completed and signed *Waiver of Appeal Rights* form.
 - 3. If a head-of household voluntarily closes their case, or voluntarily removes a Benefit Group member from their case, utilizing the *Voluntary Withdrawal/Closure/Removal* form, since the head-of household waived their appeal rights.
 - 4. If a head-of household voluntarily withdraws their Request for Informal/Formal Hearing, since the head-of household waived their appeal rights.
 - 5. If a head-of household reports, or verification is obtained, that the benefit group has relocated to an area outside of the DSR Service Delivery Area (SDA), a benefit group's case shall be closed as of the last day of the month in which they relocate due to no longer residing in the SDA. The Customer still has the right to appeal the decision.
- C. Customers must be advised of their appeal rights and provided twenty (20) working days to appeal the decision. The twenty (20) working days appeal period begins on the day after the postmark date of the Decision Notice (the day the letter is mailed is not counted).

- D. If the Customer does not submit a Request for Informal Hearing by the close of business on the last day of the twenty (20) working days appeal period, the decision made shall be implemented and considered official.
- E. If there is no change in an active benefit group's eligibility status or payment status (the benefit group's assistance payment remains the same as the previous month and there is no change in income sources), a decision notice does not need to be sent to the Head of Household.

703 APPEALS

- A. A Customer may appeal a decision by submitting a Request for Informal Hearing to the local DSR Office which issued the decision.
- B. The Customer's appeal must be received by the close of business on the last day of the twenty (20) working day appeal period.
- C. A Customer may withdraw their Request for Informal Hearing, at any time prior to the Informal Hearing Decision being rendered, by submitting a written withdrawal request to their local DSR office.
- D. The decision being appealed shall not be implemented until after the Customer's appeal rights have been exhausted or waived. Customers requesting a Formal Hearing will complete an *Acknowledgment-Appeal* form authorizing implementation of the option they chose.

704 INFORMAL HEARING

- A. An Informal Hearing shall be scheduled and conducted by no later than ten (10) working days from the date the appeal is received at the local DSR Office which issued the decision.
- B. Customers may reschedule their Informal Hearing once, regardless of the reason, by contacting their DSR Office, by no later than the scheduled time of their Informal Hearing. If a Customer was not able to reschedule their Informal Hearing by the established deadline due to a verified and justifiable reason beyond their control, the Local Office Supervisor may reschedule a Customer's Informal Hearing.
- C. If a Customer does not appear for their scheduled Informal Hearing and does not reschedule their Informal Hearing in accordance with 704(B) above, the decision being appealed will stand.
- D. An Informal Hearing decision shall be rendered and written notification provided to the Customer by no later than five (5) working days after the conclusion of the Informal Hearing.
- E. A Customer may appeal an Informal Hearing decision by submitting a Request for Formal Hearing to the Navajo Nation Office of Hearings and Appeals.
- F. An Informal Hearing decision must be rendered before a Customer can submit a Request for Formal Hearing.

705 FORMAL HEARING

- A. A Customer may appeal an Informal Hearing decision by submitting a request for formal hearing to the Navajo Nation Office of Hearings and Appeals (OHA) by no later than twenty (20) working days after the postmark date of the Informal Hearing Decision Notice.
- B. The Customer shall provide the Local DSR Office with a copy of the request for formal hearing they submitted to OHA.
- C. Upon receiving the copy of the Customer's formal hearing request, Customers receiving DSR monthly assistance payments at the time they submitted their request for formal hearing shall complete and submit an *Acknowledgment-Appeal* form indicating if they want to:
 - 1. Continue receiving their current monthly benefit amount during the Formal Hearing Process, with the understanding that, if the Formal Hearing decision is not in their favor, an overpayment will occur and they will be responsible for paying back the full amount of the overpayment; or
 - 2. Have their monthly benefit amount reduced/discontinued during the Formal Hearing Process, with the understanding that, if the Formal Hearing decision is in their favor, an underpayment will occur and they will receive a payment for the full amount of the underpayment.
- D. When the completed and signed *Acknowledgment-Appeal* form is received, the form shall be submitted to the assigned DSR staff for implementation of the chosen option
- E. The OHA will schedule the Formal Hearing and provide notification to the Customer, DOJ, and the DSR of the scheduled Formal Hearing date, time and location.
- F. Appropriate DSR staff will cooperate and coordinate with the Department of Justice (DOJ) attorney in preparing for the formal hearing, including cooperating with DOJ in settling the matter.
- G. A Hearing Officer assigned by OHA shall preside over the hearing and an attorney from DOJ shall be present to speak on behalf of the DSR. The Customer may represent him/herself or retain counsel at their own expense.
- H. Upon receipt of the Formal Hearing decision, the PSII will take appropriate actions based on the decision rendered, including, if applicable, a Potential Improper Payment Referral.
- I. A copy of the Formal Hearing Decision Notice shall be placed in the Customer's case file.
- J. The Formal Hearing shall be the final administrative appeal level.